United Nations PCNICC/2001/1/Add.2

Preparatory Commission for the International Criminal Court

Distr.: General
8 January 2002

Original: English

New York
26 February-9 March 2001
24 September-5 October 2001

Report of the Preparatory Commission for the International Criminal Court (continued)

Addendum

Part II
Draft Financial Regulations

Contents

	Page
Regulation 1. Applicability	2
Regulation 2. The financial period	2
Regulation 3. Programme budget	3
Regulation 4. Appropriations	4
Regulation 5. Provision of funds	5
Regulation 6. Funds	7
Regulation 7. Other income	8
Regulation 8. Custody of funds	8
Regulation 9. Investment of funds	8
Regulation 10. Internal control	9
Regulation 11. The accounts	10
Regulation 12. Audit	10
Regulation 13. General Provisions	11
Annex	
Additional terms of reference governing the audit of the International Criminal Court	12

02-20452 (E) 130202

Draft Financial Regulations

The Assembly of States Parties,

Noting that the Rome Statute of the International Criminal Court, in its article 113, provides that, except as otherwise specifically provided, all financial matters related to the Court and the meetings of the Assembly of States Parties, including its Bureau and subsidiary bodies, shall be governed by the Rome Statute and the Financial Regulations and Rules adopted by the Assembly of States Parties,

Adopts the following Financial Regulations[1] for the International Criminal Court.

Regulation 1
Applicability

1.1 These Regulations shall govern the financial administration of the International Criminal Court.

1.2 For the purposes of these Regulations:

(a) "Assembly of States Parties" means the Assembly of States Parties to the Rome Statute of the International Criminal Court, adopted at Rome on 17 July 1998;

(b) "Committee on Budget and Finance" means the Committee established as such by the Assembly of States Parties;

(c) "Court" means the International Criminal Court;

(d) "Presidency" means the Presidency of the International Criminal Court;

(e) "Registrar" means the Registrar of the International Criminal Court;

(f) "Rome Statute" means the Rome Statute of the International Criminal Court, adopted at Rome on 17 July 1998.

1.3 The Assembly of States Parties shall establish detailed financial rules and procedures in order to ensure effective financial administration and the exercise of economy.

1.4 These Regulations shall be implemented in a manner consistent with the responsibilities of the Prosecutor and of the Registrar as set out in articles 42, paragraph 2, and 43, paragraph 1, of the Rome Statute. The Prosecutor and the Registrar shall cooperate, taking into account the independent exercise by the Prosecutor of his or her functions under the Statute.

Regulation 2
The financial period

2.1 The financial period shall consist initially of one calendar year unless otherwise decided by the Assembly of States Parties for the first-year budget

[1] The financial rules of the Court will be adopted at a later stage.

of the Court. The Assembly of States Parties shall keep under review the financial period.

Regulation 3
Programme budget

3.1 The proposed programme budget for each financial period shall be prepared by the Registrar in consultation with the other organs of the Court referred to in article 34, subparagraphs (a) and (c), of the Rome Statute. The proposed programme budget shall be divided into parts, sections and, as appropriate, programme support, in accordance with the relevant articles of the Statute. The proposed programme budget shall include funding for the expenses of the Assembly of States Parties, including its Bureau and subsidiary bodies.

3.2 The proposed programme budget shall cover income and expenditures for the financial period to which they relate and shall be presented in the currency of the statutory headquarters of the Court.

3.3 The budget narrative shall set out, wherever possible, concrete objectives, expected results and key performance indicators for the financial period. It shall be accompanied by such information, annexes and explanatory statements as may be requested by or on behalf of the Assembly of States Parties, including a statement on the main changes in comparison with the budget of the previous financial period and such further annexes or statements as the Registrar may deem necessary and useful. The Registrar shall monitor the achievement of objectives and service delivery during the financial period and report in the context of the next proposed programme budget on actual performance attained.

3.4 The Registrar shall submit the proposed programme budget for the following financial period to the Committee on Budget and Finance at least forty five days prior to the meeting at which the Committee shall consider the proposed programme budget. At the same time, the Registrar shall also submit the proposed programme budget to the States Parties.

3.5 The Committee on Budget and Finance shall consider the proposed programme budget and shall submit its comments and recommendations to the Assembly of States Parties. The Assembly shall consider the proposed programme budget and take a decision on it.

3.6 Supplementary budget proposals may be submitted by the Registrar with respect to the current financial period if circumstances unforeseen at the time of adopting the budget make it necessary. In this case, the supplementary budget proposal shall be in a form consistent with the approved budget. The provisions of these Regulations shall be applicable to the proposed supplementary budget. Decisions of the Assembly of States Parties on the supplementary budget proposed by the Registrar shall be based on the recommendations of the Committee on Budget and Finance.

3.7 The Registrar may enter into commitments for future financial periods, provided that such commitments are for activities which have been approved by the Assembly of States Parties and are expected to occur or continue beyond the end of the current financial period.

Regulation 4
Appropriations

4.1 The appropriations adopted by the Assembly of States Parties shall constitute an authorization for the Registrar to incur obligations and make payments for the purposes for which the appropriations were adopted and up to the amounts adopted.

4.2 There shall be adopted an appropriation line, divided into two or more instalments, in each proposed programme budget to cover expenditures if they:

(a) Result from activities of the Court required by the Rome Statute or the Rules of Procedure and Evidence;

(b) Were unforeseeable at the time of adoption of the proposed programme budget;

(c) Cannot be met by transfers between appropriation sections in accordance with regulation 4.8; and

(d) Are of such an urgent nature that the Assembly of States Parties cannot be convened to approve the appropriations in accordance with regulation 3.6.

The appropriation line shall be funded in accordance with regulation 5.3.

4.3 The appropriation line adopted by the Assembly of States Parties in accordance with regulation 4.2 shall constitute an authorization for the Registrar, at his or her own decision or at the request of the Prosecutor or of the Presidency, as the case may be, with the prior concurrence of the Committee on Budget and Finance, to incur obligations and make payments for the purposes for which the appropriation line was adopted and up to the amount provided in the first instalment of the appropriation line. The Registrar may incur obligations and make payments up to the amount provided in each instalment of the appropriation line only after all the previous instalments have been obligated or disbursed. The Registrar shall report to the Committee on Budget and Finance any payment effected or obligation incurred under regulation 4.2.

4.4 Appropriations shall be available for obligation during the financial period to which they relate.

4.5 Appropriations shall remain available for twelve months following the end of the financial period to which they relate to the extent that they are required to liquidate any outstanding legal obligations of the financial period. The balance of the appropriations remaining unobligated at the close of the financial period, after deducting therefrom any contributions from States Parties relating to that financial year which remain unpaid, shall form part of any cash surplus of the budget and shall be treated in accordance with regulation 4.7.

4.6 At the end of the twelve-month period provided for in regulation 4.5, the then remaining unspent balance of appropriations retained after deducting therefrom any contributions from States Parties relating to the financial period of the appropriations which remain unpaid shall be treated as a cash surplus as in regulation 4.5. Any obligations remaining a valid claim at that time shall be charged against current appropriations.

The provisional cash surplus for the financial period shall be determined by establishing the balance between credits (assessed contributions actually received for the financial period and miscellaneous income received during the financial period) and charges (all disbursements against the appropriations for that financial period and provisions for unliquidated obligations for that financial period).

The cash surplus for the financial period shall be determined by crediting to the provisional cash surplus any arrears of prior periods' assessed contributions from States Parties received during this period and any savings from the provisions made for unliquidated obligations as mentioned above. Any remaining outstanding obligations shall be re-obligated against the appropriations of the current financial period.

4.7 Any cash surplus in the budget at the close of any financial period shall be apportioned among States Parties in proportion to the scale of assessments applicable to the financial period to which the surplus relates. As of 1 January following the year in which the audit of the accounts of the financial period is completed, the amount so apportioned to a State Party shall be surrendered to such State Party if its contribution for that financial period has been paid in full and shall be applied to liquidate, in whole or in part, first, any advance due to the Working Capital Fund; secondly, any arrears of assessed contributions; and thirdly, assessed contributions for the calendar year following the year in which the audit is completed.

While any cash surplus in the budget shall be apportioned among all States Parties, the amount so apportioned shall be surrendered only to those States Parties which have paid in full their contributions for that financial period. Amounts apportioned but not surrendered shall be retained by the Registrar until such time as the contribution for the relevant financial period is paid in full, at which time they shall be applied as set forth above.

4.8 No transfer between appropriation sections may be made without authorization by the Assembly of States Parties, unless such a transfer is made necessary by exceptional circumstances and is in accordance with criteria to be agreed upon by the Assembly of States Parties.

4.9 The officials heading the organs referred to in article 34, subparagraphs (c) and (d), of the Rome Statute shall be accountable to the Assembly of States Parties for the proper management and administration of the financial resources for which they are responsible, as set out in articles 42, paragraph 2, and 43, paragraph 1, of the Rome Statute. They shall prudently manage the appropriations so as to ensure that expenditures can be met from funds available, keeping in view the actual contributions received and the availability of cash balances.

Regulation 5
Provision of funds

5.1 The funds of the Court shall include:

(a) Assessed contributions made by States Parties in accordance with article 115, subparagraph (a), of the Rome Statute;

(b) Funds provided by the United Nations in accordance with article 115, subparagraph (b), of the Rome Statute;

(c) Voluntary contributions by Governments, international organizations, individuals, corporations and other entities, in accordance with article 116 of the Rome Statute;

(d) Such other funds to which the Court may become entitled or may receive.

5.2 The appropriations, subject to the adjustments effected in accordance with the provisions of regulation 5.4, shall be financed by contributions from States Parties in accordance with an agreed scale of assessment, as provided for in article 117 of the Rome Statute. This scale shall be based on the scale adopted by the United Nations for its regular budget, and adjusted in accordance with the principles on which that scale is based, in order to take into account the differences in membership between the United Nations and the Court. The scale shall be adopted by the Assembly of States Parties. Pending the receipt of such contributions, the appropriations may be financed from the Working Capital Fund.

5.3 The appropriations provided for in regulation 4.2 shall be financed from the assessed contributions from States Parties in accordance with regulation 5.2 up to a limit to be decided upon by the Assembly of States Parties in each budget resolution. Pending the receipt of such contributions, the appropriations may be financed from the Working Capital Fund.

5.4 The contributions of States Parties shall be assessed for a financial period on the basis of the appropriations approved by the Assembly of States Parties for that financial period. Adjustments to the assessments of States Parties shall be made in respect of:

(a) Any balance of the appropriations surrendered under regulation 4.7;

(b) Contributions resulting from the assessment of new States Parties under the provisions of regulation 5.10;

(c) Miscellaneous income.

5.5 After the Assembly of States Parties has reviewed and adopted the budget and determined the amount of the Working Capital Fund, the Registrar shall:

(a) Transmit the relevant documents to the States Parties;

(b) Inform the States Parties of their commitments in respect of annual assessed contributions and advances to the Working Capital Fund;

(c) Request them to remit their contributions and advances.

5.6 Assessed contributions and advances shall be considered as due and payable in full within thirty days of the receipt of the communication of the Registrar referred to in regulation 5.5 or as of the first day of the calendar year to which they relate, whichever is the later. As of 1 January of the following calendar year, the unpaid balance of such contributions and advances shall be considered to be one year in arrears.

5.7 Contributions and advances to the Working Capital Fund shall be assessed and paid in the currency of the statutory headquarters of the Court. The contributions and advances to the Working Capital Fund may also be paid in any other currency that is freely convertible into the currency of the statutory headquarters of the Court. Any currency exchange cost will be borne by the State Party which decided to pay in a currency other than the currency of the statutory headquarters of the Court.

5.8 Payments made by a State Party shall be credited first to the Working Capital Fund and then to the contributions due, in the order in which the State Party was assessed.

5.9 The Registrar shall submit to each meeting of the Assembly of States Parties a report on the collection of contributions and advances to the Working Capital Fund.

5.10 New States Parties shall be required to make contributions for the year in which they become States Parties and to provide their proportion of the total advances to the Working Capital Fund at rates to be determined by the Assembly of States Parties.

Regulation 6
Funds

6.1 There shall be established a General Fund for the purpose of accounting for the expenditures of the Court. The contributions referred to in regulation 5.1 by States Parties and miscellaneous income and any advances made from the Working Capital Fund to finance expenditures shall be credited to the General Fund.

6.2 There shall be established a Working Capital Fund to ensure capital for the Court to meet short-term liquidity problems pending receipt of assessed contributions. The amount shall be determined from time to time by the Assembly of States Parties. The Working Capital Fund shall be constituted by advances from States Parties. Advances shall be made in accordance with the agreed scale of assessment pursuant to regulation 5.2. Advances shall be carried to the credit of States Parties which have made such advances.

6.3 Advances made from the Working Capital Fund to finance budgetary appropriations shall be reimbursed to the Fund as soon as and to the extent that income is available for that purpose.

6.4 Income derived from investments of the Working Capital Fund shall be credited to miscellaneous income.

6.5 Trust funds and special accounts funded wholly by voluntary contributions may be established and closed by the Registrar and shall be reported to the Presidency and, through the Committee on Budget and Finance, to the Assembly of States Parties.

6.6 Reserve accounts and special accounts funded wholly or in part by assessed contributions may be established by the Assembly of States Parties.

6.7 The purposes and limits of each trust fund, reserve and special account shall be clearly defined by the appropriate authority. Unless otherwise decided by the Assembly of States Parties, such funds and accounts shall be administered in accordance with these Regulations.

Regulation 7
Other income

7.1 All other income except:

(a) Assessed contributions made by States Parties to the budget;

(b) Funds provided by the United Nations in accordance with article 115, subparagraph (b), of the Rome Statute;

(c) Voluntary contributions in accordance with article 116 of the Rome Statute and regulation 7.3 made by States Parties, other States, international organizations, individuals, corporations and other entities;

(d) Direct refunds of expenditures made during the financial period,

shall be classed as miscellaneous income, for credit to the General Fund.

7.2 Voluntary contributions, gifts and donations, whether or not in cash, may only be accepted by the Registrar provided that they are consistent with the nature and functions of the Court and the criteria to be adopted by the Assembly of States Parties on the subject, in accordance with article 116 of the Rome Statute. Acceptance of contributions which directly or indirectly involve additional financial liability for the Court shall require the prior consent of the Assembly of States Parties.

7.3 Voluntary contributions accepted for purposes specified by the donors shall be treated as trust funds or special accounts.

7.4 Voluntary contributions in respect of which no purpose is specified shall be treated as miscellaneous income and reported as "gifts" in the accounts of the financial period.

Regulation 8
Custody of funds

8.1 The Registrar shall designate the bank or banks in which the funds of the Court shall be kept.

Regulation 9
Investment of funds

9.1 The Registrar may make short-term investments of moneys not needed for immediate requirements and shall periodically inform the Presidency and, through the Committee on Budget and Finance, the Assembly of States Parties of such investments.

9.2 Income derived from investments shall be credited to miscellaneous income or as provided in the rules relating to each trust fund or special account.

Regulation 10
Internal control

10.1 The Registrar shall:

(a) Cause all payments to be made on the basis of supporting vouchers and other documents which ensure that the services or goods have been received and that payments have not previously been made;

(b) Designate the officers who may receive moneys, incur obligations and make payments on behalf of the Court;

(c) Maintain an internal financial control which shall provide for effective current examination and/or review of financial transactions in order to ensure:

(i) The regularity of the receipt, custody and disposal of all funds and other financial resources of the Court;

(ii) The conformity of obligations and expenditures with the appropriations or other financial provisions voted by the Assembly of States Parties, or with the purposes and rules relating to trust funds and special accounts;

(iii) The economic use of the resources of the Court.

10.2 Obligations for the current financial period or commitments for current and future financial periods shall be incurred only after allotments or other appropriate authorizations have been made in writing under the authority of the Registrar.

10.3 The Registrar may make such ex gratia payments as he or she deems to be necessary in the interest of the Court, provided that the statement of such payments shall be submitted to the Assembly of States Parties with the accounts.

10.4 The Registrar may, after full investigation, authorize the writing-off of losses of cash, stores and other assets, provided that a statement of all such amounts written off shall be submitted to the Auditor with the accounts and reported to the Assembly of States Parties.

10.5 Substantial purchases of equipment, supplies and other requirements as specified in the Financial Rules shall be by tender. Such tenders shall be invited by advertisement, except where the Registrar, with the approval of the Presidency, and in accordance with the Financial Rules, deems that, in the interests of the Court, a departure from the rule is desirable.

Regulation 11
The accounts

11.1 The Registrar shall submit to the Auditor accounts for the financial period not later than 31 March following the end of such period. In addition, the Registrar shall maintain, for management purposes, such accounting records as are necessary. The accounts for the financial period shall show:

(a) The income and expenditures of all funds;

(b) The status of appropriations, including:

(i) The original budget appropriations;

(ii) The appropriations as modified by any transfers;

(iii) Credits, if any, other than the appropriations adopted by the Assembly of States Parties;

(iv) The amounts charged against those appropriations and/or other credits;

(c) The assets and liabilities of the Court.

The Registrar shall also give such other information as may be appropriate to indicate the current financial position of the Court.

11.2 The accounts of the Court shall be presented in the currency of the statutory headquarters of the Court. Accounting records may, however, be kept in such other currency as the Registrar may deem necessary.

11.3 Appropriate separate accounts shall be maintained for all trust funds and special accounts.

Regulation 12
Audit

12.1 The Assembly of States Parties shall appoint an Auditor, which may be an internationally recognized firm of auditors or an Auditor General or an official of a State Party with an equivalent title. The Auditor shall be appointed for a period of four years and its appointment may be renewed.

12.2 The audit shall be conducted in conformity with generally accepted common auditing standards, subject to any special directions of the Assembly of States Parties and in accordance with the additional terms of reference set out in the annex to these Regulations.

12.3 The Auditor may make observations with respect to the efficiency of the financial procedures, the accounting system, the internal financial controls and, in general, the administration and management of the Court.

12.4 The Auditor shall be completely independent and solely responsible for the conduct of the audit.

12.5 The Assembly of States Parties may request the Auditor to perform certain specific examinations and issue separate reports on the results.

12.6 The Registrar shall provide the Auditor with the facilities required in the performance of the audit.

12.7 The Auditor shall issue a report on the audit of the financial statements and relevant schedules relating to the accounts for the financial period, which shall include such information as the Auditor deems necessary with regard to matters referred to in regulation 12.3 and in the additional terms of reference as set out in the annex to these Regulations.

12.8 The Registrar, in consultation with the other organs of the Court referred to in article 34, subparagraphs (a) and (c), of the Rome Statute, shall examine the audit reports, including reports referred to in regulation 12.5, and shall forward the financial statements and the audit report to the Committee on Budget and Finance, with such comments on the audit report as they deem appropriate.

12.9 The Committee on Budget and Finance shall examine the financial statements and audit reports, including reports referred to in regulation 12.5 and the comments of the Registrar and other organs of the Court referred to in article 34, subparagraphs (a) and (c), of the Rome Statute, and shall forward them to the Assembly of States Parties, with such comments as it deems appropriate, for consideration and approval.

Regulation 13
General provisions

13.1 These Regulations shall become effective on a date to be decided upon by the Assembly of States Parties and shall apply to the initial financial period agreed to by the Assembly of States Parties and to subsequent financial periods as provided for in regulation 2.1.

13.2 These Regulations may be amended by the Assembly of States Parties.

Annex

Additional terms of reference governing the audit of the International Criminal Court

1. The Auditor shall perform such audit of the accounts of the Court, including all trust funds and special accounts, as it deems necessary in order to satisfy itself:

(a) That the financial statements are in accord with the books and records of the Court;

(b) That the financial transactions reflected in the statements have been in accordance with the financial rules and regulations, the budgetary provisions and other applicable directives;

(c) That the securities and moneys on deposit and on hand have been verified by certificates received direct from the Court's depositaries or by actual count;

(d) That the internal controls, including internal oversight, are adequate in the light of the extent of reliance placed thereupon.

2. The Auditor shall be the sole judge as to the acceptance in whole or in part of certifications and representations by the Registrar and may proceed to such detailed examination and verification as it chooses of all financial records, including those relating to supplies and equipment.

3. The Auditor and its staff shall have free access at all convenient times to all books, records and other documentation which are, in the opinion of the Auditor, necessary for the performance of the audit. Information which is classified as privileged and which the Registrar (or a designated senior official) agrees is required by the Auditor for the purposes of the audit and information classified as confidential shall be made available on application. The Auditor and its staff shall respect the privileged and confidential nature of any information so classified which has been made available and shall not make use of it except in direct connection with the performance of the audit. The Auditor may draw the attention of the Court and the Assembly of States Parties to any denial of information classified as privileged which, in its opinion, was required for the purpose of the audit.

4. The Auditor shall have no power to disallow items in the accounts but shall draw the attention of the Registrar, for appropriate action, to any transaction for which it entertains doubt as to legality or propriety. Audit objections, to these or any other transactions, arising during the examination of the accounts shall be communicated immediately to the Registrar.

5. The Auditor (or such of its officers as it may designate) shall express and sign an opinion on the financial statements, which shall read as follows:

> "We have examined the following appended financial statements, numbered ... to ..., properly identified, and relevant schedules of the International Criminal Court for the financial period ended 31 December ... Our examination included a general review of the accounting procedures and such tests of the accounting records and other supporting evidence as we considered necessary in the circumstances."

The opinion shall also state, as appropriate, whether:

(a) The financial statements present fairly the financial position as at the end of the period and the results of their operations for the period then ended;

(b) The financial statements were prepared in accordance with the stated accounting principles;

(c) The accounting principles were applied on a basis consistent with that of the preceding financial report;

(d) Transactions were in accordance with the Financial Regulations and legislative authority.

6. The report of the Auditor on the financial operations of the Court for the financial period shall be submitted to the Assembly of States Parties in accordance with regulations 12.8 and 12.9. It shall indicate:

(a) The type and scope of the Auditor's examination;

(b) Matters affecting the completeness and accuracy of the accounts, including, where appropriate:

(i) Information necessary to the correct interpretation of the accounts;

(ii) Any amounts which ought to have been received but which have not been brought to account;

(iii) Any amounts for which a legal or contingent obligation exists and which have not been recorded or reflected in the financial statements;

(iv) Expenditures not properly substantiated;

(v) Whether proper books of accounts have been kept; where in the presentation of statements there are deviations of a material nature from the generally accepted accounting principles applied on a consistent basis, these should be disclosed;

(c) Other matters which the Auditor considers should be brought to the notice of the Assembly of States Parties, such as:

(i) Cases of fraud or presumptive fraud;

(ii) Wasteful or improper expenditure of the Court's money or other assets, notwithstanding that the accounting for the transaction may be correct;

(iii) Expenditure likely to commit the Court to further outlay on a large scale;

(iv) Any defect in the general system or detailed regulations governing the control of receipts and disbursements or of supplies and equipment;

(v) Expenditure not in accordance with the intention of the Assembly of States Parties after making allowance for duly authorized transfers within the budget;

(vi) Expenditure in excess of appropriations as amended by duly authorized transfers within the budget;

(vii) Expenditure not in conformity with the authority which governs it;

(d) The accuracy or otherwise of the supplies and equipment records as determined by stock-taking and examination of the records;

(e) If appropriate, transactions accounted for in a previous period concerning which further information has been obtained or transactions in a later period concerning which it seems desirable that the Assembly of States Parties should have early knowledge.

7. The Auditor may make such observations with respect to its findings resulting from the audit and such comments on the Registrar's financial report as it deems appropriate to the Assembly of States Parties, the Prosecutor or the Registrar.

8. Whenever the scope of audit of the Auditor is restricted, or whenever it is unable to obtain sufficient evidence, it shall refer to the matter in its opinion and report, making clear in the report the reasons for its comments and the effect on the financial position and the financial transactions as recorded.

9. In no case shall the Auditor include criticism in its report without first affording the Registrar an adequate opportunity of explanation on the matter under observation.

10. The Auditor shall not be required to mention any matter referred to in the foregoing that, in its opinion, is insignificant in all respects.

United Nations PCNICC/2001/1/Add.3

Preparatory Commission for the International Criminal Court

Distr.: General
8 January 2002

Original: English

New York
26 February-9 March 2001
24 September-5 October 2001

Report of the Preparatory Commission for the International Criminal Court (continued)

Addendum

Part III
Draft Agreement on the Privileges and Immunities of the Court

Contents

	Page
Article 1. Use of terms	3
Article 2. Legal status and judicial personality of the Court	4
Article 3. General provisions on privileges and immunities of the Court	4
Article 4. Inviolability of the premises of the Court	4
Article 5. Flag, emblem and markings	4
Article 6. Immunity of the Court, its property, funds and assets	4
Article 7. Inviolability of archives and documents	5
Article 8. Exemption from taxes, customs duties and import or export restrictions	5
Article 9. Reimbursement of duties and/or taxes	5
Article 10. Funds and freedom from currency restrictions	5
Article 11. Facilities in respect of communications	6
Article 12. Exercise of the functions of the Court outside its headquarters	6
Article 13. Representatives of States participating in the Assembly and its subsidiary organs and representatives of intergovernmental organizations	7

02-20459 (E) 130202 140202

Article 14. Representatives of States participating in the proceedings of the Court 8
Article 15. Judges, Prosecutor, Deputy Prosecutors and Registrar 8
Article 16. Deputy Registrar, staff of the Office of the Prosecutor and staff of the Registry 9
Article 17. Personnel recruited locally and not otherwise covered by the present Agreement 9
Article 18. Counsel and persons assisting defence counsel 10
Article 19. Witnesses 11
Article 20. Victims 11
Article 21. Experts 12
Article 22. Other persons required to be present at the seat of the Court 13
Article 23. Cooperation with the authorities of States Parties 13
Article 24. Waiver of privileges and immunities provided for in articles 13 and 14 13
Article 25. Waiver of privileges and immunities provided for in articles 15 to 22 13
Article 26. Social security 14
Article 27. Notification 14
Article 28. Laissez-passer 14
Article 29. Visas 15
Article 30. Settlement of disputes with third parties 15
Article 31. Settlement of differences on the interpretation or application of the present Agreement 15
Article 32. Applicability of the present Agreement 16
Article 33. Signature, ratification, acceptance, approval or accession 16
Article 34. Entry into force 16
Article 35. Amendments 16
Article 36. Denunciation 17
Article 37. Depositary 17
Article 38. Authentic texts 17

Draft Agreement on the privileges and immunities of the Court

The States Parties to the present Agreement,

Whereas the Rome Statute of the International Criminal Court adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries established the International Criminal Court with the power to exercise its jurisdiction over persons for the most serious crimes of international concern;

Whereas article 4 of the Rome Statute provides that the International Criminal Court shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes;

Whereas article 48 of the Rome Statute provides that the International Criminal Court shall enjoy in the territory of each State Party to the Rome Statute such privileges and immunities as are necessary for the fulfilment of its purposes;

Have agreed as follows:

Article 1
Use of terms

For the purposes of the present Agreement:

(a) "The Statute" means the Rome Statute of the International Criminal Court adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court;

(b) "The Court" means the International Criminal Court established by the Statute;

(c) "States Parties" means States Parties to the present Agreement;

(d) "Representatives of States Parties" means all delegates, deputy delegates, advisers, technical experts and secretaries of delegations;

(e) "Assembly" means the Assembly of States Parties to the Statute;

(f) "Judges" means the judges of the Court;

(g) "The Presidency" means the organ composed of the President and the First and Second Vice-Presidents of the Court;

(h) "Prosecutor" means the Prosecutor elected by the Assembly in accordance with article 42, paragraph 4, of the Statute;

(i) "Deputy Prosecutors" means the Deputy Prosecutors elected by the Assembly in accordance with article 42, paragraph 4, of the Statute;

(j) "Registrar" means the Registrar elected by the Court in accordance with article 43, paragraph 4, of the Statute;

(k) "Deputy Registrar" means the Deputy Registrar elected by the Court in accordance with article 43, paragraph 4, of the Statute;

(l) "Counsel" means defence counsel and the legal representatives of victims;

(m) "Secretary-General" means the Secretary-General of the United Nations;

(n) "Representatives of intergovernmental organizations" means the executive heads of intergovernmental organizations, including any official acting on his or her behalf;

(o) "Vienna Convention" means the Vienna Convention on Diplomatic Relations of 18 April 1961;

(p) "Rules of Procedure and Evidence" means the Rules of Procedure and Evidence adopted in accordance with article 51 of the Statute.

Article 2
Legal status and juridical personality of the Court

The Court shall have international legal personality and shall also have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes. It shall, in particular, have the capacity to contract, to acquire and to dispose of immovable and movable property and to participate in legal proceedings.

Article 3
General provisions on privileges and immunities of the Court

The Court shall enjoy in the territory of each State Party such privileges and immunities as are necessary for the fulfilment of its purposes.

Article 4
Inviolability of the premises of the Court

The premises of the Court shall be inviolable.

Article 5
Flag, emblem and markings

The Court shall be entitled to display its flag, emblem and markings at its premises and on vehicles and other means of transportation used for official purposes.

Article 6
Immunity of the Court, its property, funds and assets

1. The Court, and its property, funds and assets, wherever located and by whomsoever held, shall be immune from every form of legal process, except insofar as in any particular case the Court has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

2. The property, funds and assets of the Court, wherever located and by whomsoever held, shall be immune from search, seizure, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

3. To the extent necessary to carry out the functions of the Court, the property, funds and assets of the Court, wherever located and by whomsoever held, shall be exempt from restrictions, regulations, controls or moratoria of any nature.

Article 7
Inviolability of archives and documents

The archives of the Court, and all papers and documents in whatever form, and materials being sent to or from the Court, held by the Court or belonging to it, wherever located and by whomsoever held, shall be inviolable. The termination or absence of such inviolability shall not affect protective measures that the Court may order pursuant to the Statute and the Rules of Procedure and Evidence with regard to documents and materials made available to or used by the Court.

Article 8
Exemption from taxes, customs duties and import or export restrictions

1. The Court, its assets, income and other property and its operations and transactions shall be exempt from all direct taxes, which include, inter alia, income tax, capital tax and corporation tax, as well as direct taxes levied by local and provincial authorities. It is understood, however, that the Court shall not claim exemption from taxes which are, in fact, no more than charges for public utility services provided at a fixed rate according to the amount of services rendered and which can be specifically identified, described and itemized.

2. The Court shall be exempt from all customs duties, import turnover taxes and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Court for its official use and in respect of its publications.

3. Goods imported or purchased under such an exemption shall not be sold or otherwise disposed of in the territory of a State Party, except under conditions agreed with the competent authorities of that State Party.

Article 9
Reimbursement of duties and/or taxes

1. The Court shall not, as a general rule, claim exemption from duties and/or taxes which are included in the price of movable and immovable property and taxes paid for services rendered. Nevertheless, when the Court for its official use makes major purchases of property and goods or services on which identifiable duties and/or taxes are charged or are chargeable, States Parties shall make appropriate administrative arrangements for the exemption of such charges or reimbursement of the amount of duty and/or tax paid.

2. Goods purchased under such an exemption or reimbursement shall not be sold or otherwise disposed of, except in accordance with the conditions laid down by the State Party which granted the exemption or reimbursement. No exemption or reimbursement shall be accorded in respect of charges for public utility services provided to the Court.

Article 10
Funds and freedom from currency restrictions

1. Without being restricted by financial controls, regulations or financial moratoriums of any kind, while carrying out its activities:

(a) The Court may hold funds, currency of any kind or gold and operate accounts in any currency;

(b) The Court shall be free to transfer its funds, gold or its currency from one country to another or within any country and to convert any currency held by it into any other currency;

(c) The Court may receive, hold, negotiate, transfer, convert or otherwise deal with bonds and other financial securities;

(d) The Court shall enjoy treatment not less favourable than that accorded by the State Party concerned to any intergovernmental organization or diplomatic mission in respect of rates of exchange for its financial transactions.

2. In exercising its rights under paragraph 1, the Court shall pay due regard to any representations made by any State Party insofar as it is considered that effect can be given to such representations without detriment to the interests of the Court.

Article 11
Facilities in respect of communications

1. The Court shall enjoy in the territory of each State Party for the purposes of its official communications and correspondence treatment not less favourable than that accorded by the State Party concerned to any intergovernmental organization or diplomatic mission in the matter of priorities, rates and taxes applicable to mail and the various forms of communication and correspondence.

2. No censorship shall be applied to the official communications or correspondence of the Court.

3. The Court may use all appropriate means of communication, including electronic means of communication, and shall have the right to use codes or cipher for its official communications and correspondence. The official communications and correspondence of the Court shall be inviolable.

4. The Court shall have the right to dispatch and receive correspondence and other materials or communications by courier or in sealed bags, which shall have the same privileges, immunities and facilities as diplomatic couriers and bags.

5. The Court shall have the right to operate radio and other telecommunication equipment on any frequencies allocated to it by the States Parties in accordance with their national procedures. The States Parties shall endeavour to allocate to the Court, to the extent possible, frequencies for which it has applied.

Article 12
Exercise of the functions of the Court outside its headquarters

In the event that the Court, pursuant to article 3, paragraph 3, of the Statute, considers it desirable to sit elsewhere than at its headquarters at The Hague in the Netherlands, the Court may conclude with the State concerned an arrangement concerning the provision of the appropriate facilities for the exercise of its functions.

Article 13
Representatives of States participating in the Assembly and its subsidiary organs and representatives of intergovernmental organizations

1. Representatives of States Parties to the Statute attending meetings of the Assembly and its subsidiary organs, representatives of other States that may be attending meetings of the Assembly and its subsidiary organs as observers in accordance with article 112, paragraph 1, of the Statute, and representatives of States and of intergovernmental organizations invited to meetings of the Assembly and its subsidiary organs shall, while exercising their official functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

(a) Immunity from personal arrest or detention;

(b) Immunity from legal process of every kind in respect of words spoken or written, and all acts performed by them in their official capacity; such immunity shall continue to be accorded notwithstanding that the persons concerned may have ceased to exercise their functions as representatives;

(c) Inviolability of all papers and documents in whatever form;

(d) The right to use codes or cipher, to receive papers and documents or correspondence by courier or in sealed bags and to receive and send electronic communications;

(e) Exemption from immigration restrictions, alien registration requirements and national service obligations in the State Party they are visiting or through which they are passing in the exercise of their functions;

(f) The same privileges in respect of currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions;

(g) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys under the Vienna Convention;

(h) The same protection and repatriation facilities as are accorded to diplomatic agents in time of international crisis under the Vienna Convention;

(i) Such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic agents enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise as part of their personal baggage) or from excise duties or sales taxes.

2. Where the incidence of any form of taxation depends upon residence, periods during which the representatives described in paragraph 1 attending the meetings of the Assembly and its subsidiary organs are present in a State Party for the discharge of their duties shall not be considered as periods of residence.

3. The provisions of paragraphs 1 and 2 of this article are not applicable as between a representative and the authorities of the State Party of which he or she is a national or of the State Party or intergovernmental organization of which he or she is or has been a representative.

Article 14
Representatives of States participating in the proceedings of the Court

Representatives of States participating in the proceedings of the Court shall, while exercising their official functions, and during their journey to and from the place of the proceedings, enjoy the privileges and immunities referred to in article 13.

Article 15
Judges, Prosecutor, Deputy Prosecutors and Registrar

1. The judges, the Prosecutor, the Deputy Prosecutors and the Registrar shall, when engaged on or with respect to the business of the Court, enjoy the same privileges and immunities as are accorded to heads of diplomatic missions and shall, after the expiry of their terms of office, continue to be accorded immunity from legal process of every kind in respect of words which had been spoken or written and acts which had been performed by them in their official capacity.

2. The judges, the Prosecutor, the Deputy Prosecutors and the Registrar and members of their families forming part of their households shall be accorded every facility for leaving the country where they may happen to be and for entering and leaving the country where the Court is sitting. On journeys in connection with the exercise of their functions, the judges, the Prosecutor, the Deputy Prosecutors and the Registrar shall in all States Parties through which they may have to pass enjoy all the privileges, immunities and facilities granted by States Parties to diplomatic agents in similar circumstances under the Vienna Convention.

3. If a judge, the Prosecutor, a Deputy Prosecutor or the Registrar, for the purpose of holding himself or herself at the disposal of the Court, resides in any State Party other than that of which he or she is a national or permanent resident, he or she shall, together with family members forming part of his or her household, be accorded diplomatic privileges, immunities and facilities during the period of residence.

4. The judges, the Prosecutor, the Deputy Prosecutors and the Registrar and members of their families forming part of their households shall be accorded the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention.

5. Paragraphs 1 to 4 of this article shall apply to judges of the Court even after their term of office has expired if they continue to exercise their functions in accordance with article 36, paragraph 10, of the Statute.

6. The salaries, emoluments and allowances paid to the judges, the Prosecutor, the Deputy Prosecutors and the Registrar by the Court shall be exempt from taxation. Where the incidence of any form of taxation depends upon residence, periods during which the judges, the Prosecutor, the Deputy Prosecutors and the Registrar are present in a State Party for the discharge of their functions shall not be considered as periods of residence for purposes of taxation. States Parties may take these salaries, emoluments and allowances into account for the purpose of assessing the amount of taxes to be applied to income from other sources.

7. States Parties shall not be obliged to exempt from income tax pensions or annuities paid to former judges, Prosecutors and Registrars and their dependants.

Article 16
Deputy Registrar, staff of the Office of the Prosecutor and staff of the Registry

1. The Deputy Registrar, the staff of the Office of the Prosecutor and the staff of the Registry shall enjoy such privileges, immunities and facilities as are necessary for the independent performance of their functions. They shall be accorded:

(a) Immunity from personal arrest or detention and from seizure of their personal baggage;

(b) Immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity, which immunity shall continue to be accorded even after termination of their employment with the Court;

(c) Inviolability for all official papers and documents in whatever form and materials;

(d) Exemption from taxation on the salaries, emoluments and allowances paid to them by the Court. States Parties may take these salaries, emoluments and allowances into account for the purpose of assessing the amount of taxes to be applied to income from other sources;

(e) Exemption from national service obligations;

(f) Together with members of their families forming part of their household, exemption from immigration restrictions or alien registration;

(g) Exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the State Party concerned; an inspection in such a case shall be conducted in the presence of the official concerned;

(h) The same privileges in respect of currency and exchange facilities as are accorded to the officials of comparable rank of diplomatic missions established in the State Party concerned;

(i) Together with members of their families forming part of their household, the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention;

(j) The right to import free of duties and taxes, except payments for services, their furniture and effects at the time of first taking up post in the State Party in question and to re-export their furniture and effects free of duties and taxes to their country of permanent residence.

2. States Parties shall not be obliged to exempt from income tax pensions or annuities paid to former Deputy Registrars, members of the staff of the Office of the Prosecutor, members of the staff of the Registry and their dependants.

Article 17
Personnel recruited locally and not otherwise covered by the present Agreement

Personnel recruited by the Court locally and not otherwise covered by the present Agreement shall be accorded immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity for

the Court. Such immunity shall continue to be accorded after termination of employment with the Court for activities carried out on behalf of the Court. During their employment, they shall also be accorded such other facilities as may be necessary for the independent exercise of their functions for the Court.

Article 18
Counsel and persons assisting defence counsel

1. Counsel shall enjoy the following privileges, immunities and facilities to the extent necessary for the independent performance of his or her functions, including the time spent on journeys, in connection with the performance of his or her functions and subject to production of the certificate referred to in paragraph 2 of this article:

(a) Immunity from personal arrest or detention and from seizure of his or her personal baggage;

(b) Immunity from legal process of every kind in respect of words spoken or written and all acts performed by him or her in official capacity, which immunity shall continue to be accorded even after he or she has ceased to exercise his or her functions;

(c) Inviolability of papers and documents in whatever form and materials relating to the exercise of his or her functions;

(d) For the purposes of communications in pursuance of his or her functions as counsel, the right to receive and send papers and documents in whatever form;

(e) Exemption from immigration restrictions or alien registration;

(f) Exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the State Party concerned; an inspection in such a case shall be conducted in the presence of the counsel concerned;

(g) The same privileges in respect of currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions;

(h) The same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention.

2. Upon appointment of counsel in accordance with the Statute, the Rules of Procedure and Evidence and the Regulations of the Court, counsel shall be provided with a certificate under the signature of the Registrar for the period required for the exercise of his or her functions. Such certificate shall be withdrawn if the power or mandate is terminated before the expiry of the certificate.

3. Where the incidence of any form of taxation depends upon residence, periods during which counsel is present in a State Party for the discharge of his or her functions shall not be considered as periods of residence.

4. The provisions of this article shall apply mutatis mutandis to persons assisting defence counsel in accordance with rule 22 of the Rules of Procedure and Evidence.

Article 19
Witnesses

1. Witnesses shall enjoy the following privileges, immunities and facilities to the extent necessary for their appearance before the Court for purposes of giving evidence, including the time spent on journeys in connection with their appearance before the Court, subject to the production of the document referred to in paragraph 2 of this article:

(a) Immunity from personal arrest or detention;

(b) Without prejudice to subparagraph (d) below, immunity from seizure of their personal baggage unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the State Party concerned;

(c) Immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of their testimony, which immunity shall continue to be accorded even after their appearance and testimony before the Court;

(d) Inviolability of papers and documents in whatever form and materials relating to their testimony;

(e) For purposes of their communications with the Court and counsel in connection with their testimony, the right to receive and send papers and documents in whatever form;

(f) Exemption from immigration restrictions or alien registration when they travel for purposes of their testimony;

(g) The same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention.

2. Witnesses who enjoy the privileges, immunities and facilities referred to in paragraph 1 of this article shall be provided by the Court with a document certifying that their appearance is required by the Court and specifying a time period during which such appearance is necessary.

Article 20
Victims

1. Victims participating in the proceedings in accordance with rules 89 to 91 of the Rules of Procedure and Evidence shall enjoy the following privileges, immunities and facilities to the extent necessary for their appearance before the Court, including the time spent on journeys in connection with their appearance before the Court, subject to the production of the document referred to in paragraph 2 of this article:

(a) Immunity from personal arrest or detention;

(b) Immunity from seizure of their personal baggage unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the State Party concerned;

(c) Immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of their appearance before the Court, which immunity shall continue to be accorded even after their appearance before the Court;

(d) Exemption from immigration restrictions or alien registration when they travel to and from the Court for purposes of their appearance.

2. Victims participating in the proceedings in accordance with rules 89 to 91 of the Rules of Procedure and Evidence who enjoy the privileges, immunities and facilities referred to in paragraph 1 of this article shall be provided by the Court with a document certifying their participation in the proceedings of the Court and specifying a time period for that participation.

Article 21
Experts

1. Experts performing functions for the Court shall be accorded the following privileges, immunities and facilities to the extent necessary for the independent exercise of their functions, including the time spent on journeys in connection with their functions, subject to production of the document referred to in paragraph 2 of this article:

(a) Immunity from personal arrest or detention and from seizure of their personal baggage;

(b) Immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of the performance of their functions for the Court, which immunity shall continue to be accorded even after the termination of their functions;

(c) Inviolability of papers and documents in whatever form and materials relating to their functions for the Court;

(d) For the purposes of their communications with the Court, the right to receive and send papers and documents in whatever form and materials relating to their functions for the Court by courier or in sealed bags;

(e) Exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the State Party concerned; an inspection in such a case shall be conducted in the presence of the expert concerned;

(f) The same privileges in respect of currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions;

(g) The same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention;

(h) Exemption from immigration restrictions or alien registration in relation to their functions as specified in the document referred to in paragraph 2 of this article.

2. Experts who enjoy the privileges, immunities and facilities referred to in paragraph 1 of this article shall be provided by the Court with a document certifying

that they are performing functions for the Court and specifying a time period for which their functions will last.

Article 22
Other persons required to be present at the seat of the Court

1. Other persons required to be present at the seat of the Court shall, to the extent necessary for their presence at the seat of the Court, including the time spent on journeys in connection with their presence, be accorded the privileges, immunities and facilities provided for in article 20, paragraph 1, subparagraphs (a) to (d), of the present Agreement, subject to production of the document referred to in paragraph 2 of this article.

2. Other persons required to be present at the seat of the Court shall be provided by the Court with a document certifying that their presence is required at the seat of the Court and specifying a time period during which such presence is necessary.

Article 23
Cooperation with the authorities of States Parties

1. The Court shall cooperate at all times with the appropriate authorities of States Parties to facilitate the enforcement of their laws and to prevent the occurrence of any abuse in connection with the privileges, immunities and facilities referred to in the present Agreement.

2. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying privileges and immunities under the present Agreement to respect the laws and regulations of the State Party in whose territory they may be on the business of the Court or through whose territory they may pass on such business. They also have a duty not to interfere in the internal affairs of that State.

Article 24
Waiver of privileges and immunities provided for in articles 13 and 14

Privileges and immunities provided for in articles 13 and 14 of the present Agreement are accorded to the representatives of States and intergovernmental organizations not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the work of the Assembly, its subsidiary organs and the Court. Consequently, States Parties not only have the right but are under a duty to waive the privileges and immunities of their representatives in any case where, in the opinion of those States, they would impede the course of justice and can be waived without prejudice to the purpose for which the privileges and immunities are accorded. States not party to the present Agreement and intergovernmental organizations are granted the privileges and immunities provided for in articles 13 and 14 of the present Agreement on the understanding that they undertake the same duty regarding waiver.

Article 25
Waiver of privileges and immunities provided for in articles 15 to 22

1. The privileges and immunities provided for in articles 15 to 22 of the present Agreement are granted in the interests of the good administration of justice and not for the personal benefit of the individuals themselves. Such privileges and

immunities may be waived in accordance with article 48, paragraph 5, of the Statute and the provisions of this article and there is a duty to do so in any particular case where they would impede the course of justice and can be waived without prejudice to the purpose for which they are accorded.

2. The privileges and immunities may be waived:

(a) In the case of a judge or the Prosecutor, by an absolute majority of the judges;

(b) In the case of the Registrar, by the Presidency;

(c) In the case of the Deputy Prosecutors and the staff of the Office of the Prosecutor, by the Prosecutor;

(d) In the case of the Deputy Registrar and the staff of the Registry, by the Registrar;

(e) In the case of personnel referred to in article 17, by the head of the organ of the Court employing such personnel;

(f) In the case of counsel and persons assisting defence counsel, by the Presidency;

(g) In the case of witnesses and victims, by the Presidency;

(h) In the case of experts, by the head of the organ of the Court appointing the expert;

(i) In the case of other persons required to be present at the seat of the Court, by the Presidency.

Article 26
Social security

From the date on which the Court establishes a social security scheme, the persons referred to in articles 15, 16 and 17 shall, with respect to services rendered for the Court, be exempt from all compulsory contributions to national social security schemes.

Article 27
Notification

The Registrar shall communicate periodically to all States Parties the categories and names of the judges, the Prosecutor, the Deputy Prosecutors, the Registrar, the Deputy Registrar, the staff of the Office of the Prosecutor, the staff of the Registry and counsel to whom the provisions of the present Agreement apply. The Registrar shall also communicate to all States Parties information on any change in the status of these persons.

Article 28
Laissez-passer

The States Parties shall recognize and accept the United Nations laissez-passer or the travel document issued by the Court to the judges, the Prosecutor, the Deputy Prosecutors, the Registrar, the Deputy Registrar, the staff of the Office of the Prosecutor and the staff of the Registry as valid travel documents.

Article 29
Visas

Applications for visas or entry/exit permits, where required, from all persons who are holders of the United Nations laissez-passer or of the travel document issued by the Court, and also from persons referred to in articles 18 to 22 of the present Agreement who have a certificate issued by the Court confirming that they are travelling on the business of the Court, shall be dealt with by the States Parties as speedily as possible and granted free of charge.

Article 30
Settlement of disputes with third parties

The Court shall, without prejudice to the powers and responsibilities of the Assembly under the Statute, make provisions for appropriate modes of settlement of:

(a) Disputes arising out of contracts and other disputes of a private law character to which the Court is a party;

(b) Disputes involving any person referred to in the present Agreement who, by reason of his or her official position or function in connection with the Court, enjoys immunity, if such immunity has not been waived.

Article 31
Settlement of differences on the interpretation or application of the present Agreement

1. All differences arising out of the interpretation or application of the present Agreement between two or more States Parties or between the Court and a State Party shall be settled by consultation, negotiation or other agreed mode of settlement.

2. If the difference is not settled in accordance with paragraph 1 of this article within three months following a written request by one of the parties to the difference, it shall, at the request of either party, be referred to an arbitral tribunal according to the procedure set forth in paragraphs 3 to 6 of this article.

3. The arbitral tribunal shall be composed of three members: one to be chosen by each party to the difference and the third, who shall be the chairman of the tribunal, to be chosen by the other two members. If either party has failed to make its appointment of a member of the tribunal within two months of the appointment of a member by the other party, that other party may invite the President of the International Court of Justice to make such appointment. Should the first two members fail to agree upon the appointment of the chairman of the tribunal within two months following their appointment, either party may invite the President of the International Court of Justice to choose the chairman.

4. Unless the parties to the difference otherwise agree, the arbitral tribunal shall determine its own procedure and the expenses shall be borne by the parties as assessed by the tribunal.

5. The arbitral tribunal, which shall decide by a majority of votes, shall reach a decision on the difference on the basis of the provisions of the present Agreement

and the applicable rules of international law. The decision of the arbitral tribunal shall be final and binding on the parties to the difference.

6. The decision of the arbitral tribunal shall be communicated to the parties to the difference, to the Registrar and to the Secretary-General.

Article 32
Applicability of the present Agreement

The present Agreement is without prejudice to relevant rules of international law, including international humanitarian law.

Article 33
Signature, ratification, acceptance, approval or accession

1. The present Agreement shall be open for signature by all States until ... at the seat of the Court in The Hague and thereafter until ... at United Nations Headquarters in New York.

2. The present Agreement is subject to ratification, acceptance or approval by signatory States. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General.

3. The present Agreement shall remain open for accession by all States. The instruments of accession shall be deposited with the Secretary-General.

Article 34
Entry into force

1. The present Agreement shall enter into force thirty days after the date of deposit with the Secretary-General of the tenth instrument of ratification, acceptance, approval or accession.

2. For each State ratifying, accepting, approving or acceding to the present Agreement after the deposit of the tenth instrument of ratification, acceptance, approval or accession, the Agreement shall enter into force on the thirtieth day following the deposit with the Secretary-General of its instrument of ratification, acceptance, approval or accession.

Article 35
Amendments

1. Any State Party may, by written communication addressed to the Secretary-General, propose amendments to the present Agreement. The Secretary-General shall circulate such communication to all States Parties and the Bureau of the Assembly with a request that States Parties notify the Secretary-General whether they favour a Review Conference of States Parties to discuss the proposal.

2. If, within three months from the date of circulation by the Secretary-General, a majority of States Parties notify the Secretary-General that they favour a Review Conference, the Secretary-General shall request the Bureau of the Assembly to convene such a Conference in connection with the next regular or special session of the Assembly.

3. The adoption of an amendment on which consensus cannot be reached shall require a two-thirds majority of States Parties present and voting, provided that a majority of States Parties is present.

4. The Secretary-General shall circulate to all States Parties and signatory States any amendment adopted at a Review Conference.

5. An amendment shall enter into force for States Parties which have ratified or accepted the amendment sixty days after two thirds of the States which were Parties at the date of adoption of the amendment have deposited instruments of ratification or acceptance with the Secretary-General.

6. For each State Party ratifying or accepting an amendment after the deposit of the required number of instruments of ratification or acceptance, the amendment shall enter into force on the sixtieth day following the deposit of its instrument of ratification or acceptance.

7. A State which becomes a Party to the present Agreement after the entry into force of an amendment in accordance with paragraph 5 shall, failing an expression of different intention by that State:

(a) Be considered a Party to the present Agreement as so amended; and

(b) Be considered a Party to the unamended Agreement in relation to any State Party not bound by the amendment.

Article 36
Denunciation

1. A State Party may, by written notification addressed to the Secretary-General, denounce the present Agreement. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in the present Agreement to which it would be subject under international law independently of the present Agreement.

Article 37
Depositary

The Secretary-General shall be the depositary of the present Agreement.

Article 38
Authentic texts

The original of the present Agreement, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General.

IN WITNESS THEREOF, the undersigned, being duly authorized thereto, have signed the present Agreement.

United Nations PCNICC/2001/1/Add.4

Preparatory Commission for the International Criminal Court

Distr.: General
8 January 2002

Original: English

New York
26 February-9 March 2001
24 September-5 October 2001

Report of the Preparatory Commission for the International Criminal Court (continued)

Addendum

Part IV
Draft Rules of Procedure of the Assembly of States Parties

Contents

		Page
I.	General	6
	Rule 1. Use of terms	6
	Rule 2. Application	6
II.	Sessions	6
	Rule 3. Sessions of the Assembly	6
	Regular sessions	7
	Rule 4. Frequency of sessions	7
	Rule 5. Date of commencement and duration	7
	Rule 6. Notification of session	7
	Rule 7. Temporary adjournment of session	7
	Special sessions	7
	Rule 8. Convening of special sessions	7
	Rule 9. Notification of special session	7

02-20465 (E) 190202

III. Agenda ... 7
Regular sessions ... 7
Rule 10. Communication of the provisional agenda ... 7
Rule 11. Drawing-up of the provisional agenda ... 8
Rule 12. Supplementary items ... 8
Rule 13. Additional items ... 9
Special sessions ... 9
Rule 14. Communication of the provisional agenda ... 9
Rule 15. Provisional agenda ... 9
Rule 16. Supplementary items ... 9
Rule 17. Additional items ... 9
Regular and special sessions ... 9
Rule 18. Explanatory memorandum ... 9
Rule 19. Adoption of the agenda ... 9
Rule 20. Amendment and deletion of items ... 10
Rule 21. Debate on the inclusion of items ... 10
Rule 22. Modification of the allocation of expenses ... 10
IV. Representation and credentials ... 10
Rule 23. Representation ... 10
Rule 24. Submission of credentials ... 10
Rule 25. Credentials Committee ... 10
Rule 26. Provisional admission to a session ... 11
Rule 27. Objection to the representation ... 11
Rule 28. Notification regarding participation of representatives of Observer States ... 11
V. Bureau ... 11
Rule 29. Composition and function ... 11
VI. President and Vice-Presidents ... 11
Rule 30. General powers of the President ... 11
Rule 31. Voting rights of the President ... 12
Rule 32. Acting President ... 12
Rule 33. Replacement of the President ... 12
VII. Participation of the President of the Court, the Prosecutor and the Registrar ... 12
Rule 34. Participation ... 12

VIII. Participation of the United Nations ... 12
Rule 35. Participation of the United Nations ... 12
Rule 36. Participation of the Secretary-General ... 13
IX. Secretariat ... 13
Rule 37. Duties of the Secretariat ... 13
X. Languages ... 13
Rule 38. Official and working languages ... 13
Rule 39. Interpretation ... 13
Rule 40. Languages of decisions and other documents ... 13
XI. Records ... 14
Rule 41. Sound recordings ... 14
XII. Public and private meetings ... 14
Rule 42. General principles ... 14
XIII. Minute of silent prayer or meditation ... 14
Rule 43. Invitation to silent prayer or meditation ... 14
XIV. Conduct of business ... 14
Rule 44. Quorum ... 14
Rule 45. Speeches ... 15
Rule 46. Precedence ... 15
Rule 47. Statements by the President of the Court, the Prosecutor and the Registrar ... 15
Rule 48. Statements by the Secretariat ... 15
Rule 49. Points of order ... 15
Rule 50. Time limit on speeches ... 15
Rule 51. Closing of list of speakers and right of reply ... 16
Rule 52. Adjournment of debate ... 16
Rule 53. Closure of debate ... 16
Rule 54. Suspension or adjournment of the meeting ... 16
Rule 55. Order of procedural motions ... 16
Rule 56. Proposals and amendments ... 17
Rule 57. Decisions on competence ... 17
Rule 58. Withdrawal of motions ... 17
Rule 59. Reconsideration of proposals ... 17

XV. Decision-making ... 17
Rule 60. Voting rights ... 17
Rule 61. Consensus ... 17
Rule 62. Consideration of financial implications ... 18
Rule 63. Decisions on matters of substance ... 18
Rule 64. Decisions on matters of procedure ... 18
Rule 65. Decisions on amendments to proposals relating to matters of substance ... 18
Rule 66. Meaning of the phrase "States Parties present and voting" ... 18
Rule 67. Method of voting ... 18
Rule 68. Conduct during voting ... 19
Rule 69. Explanation of vote ... 19
Rule 70. Division of proposals and amendments ... 19
Rule 71. Order of voting on amendments ... 19
Rule 72. Order of voting on proposals ... 20
Rule 73. Rules of Procedure and Evidence ... 20
Rule 74. Elements of Crimes ... 20
Rule 75. Increase or reduction in the number of judges ... 20
Rule 76. Amendments to the Statute ... 20
Rule 77. Equally divided votes ... 21
Rule 78. Elections of officers of the Assembly ... 21
Rule 79. Restricted balloting for one elective place ... 21
Rule 80. Restricted balloting for two or more elective places ... 21
XVI. Disciplinary proceedings ... 22
Rule 81. Removal from office of a judge, the Prosecutor or a Deputy Prosecutor ... 22
Rule 82. Disciplinary measures ... 22
XVII. Subsidiary bodies ... 22
Rule 83. Establishment of subsidiary bodies ... 22
Rule 84. Rules of procedure of subsidiary bodies ... 23
XVIII. Elections of the judges, the Prosecutor and the Deputy Prosecutors ... 23
Rule 85. Elections of the judges ... 23
Rule 86. Elections of the Prosecutor and the Deputy Prosecutors ... 23
XIX. Administrative and budgetary questions ... 23
Rule 87. Staff regulations and guidelines ... 23

Rule 88. Regulations for financial administration 23
Rule 89. Trust Fund 24
Rule 90. Budget 24
Rule 91. Contributions 24
XX. Participation of observers and other participants 24
Rule 92. Observers 24
Rule 93. Other participants 25
Rule 94. States not having observer status 25
Rule 95. Written statements 25
XXI. Amendments 25
Rule 96. Method of amendment 25

Draft Rules of Procedure of the Assembly of States Parties

I. General

Rule 1
Use of terms

For the purposes of these Rules:

"Assembly" means the Assembly of States Parties;

"Bureau" means the Bureau of the Assembly of States Parties as defined in article 112, paragraph 3 (a), of the Statute;

"the Court" means the International Criminal Court;

"Deputy Prosecutor" means the Deputy Prosecutor of the Court;

"judges" means the judges of the Court;

"Observer States" means States which have signed the Statute or the Final Act of the Rome Conference and which, pursuant to article 112, paragraph 1, of the Statute, may be observers in the Assembly;

"Presidency" means the organ composed of the President and the First and Second Vice-Presidents of the Court;

"Prosecutor" means the Prosecutor of the Court;

"Registrar" means the Registrar of the Court;

"Rules" means the Rules of Procedure of the Assembly of States Parties;

"Secretariat" means the Secretariat of the Assembly of States Parties;

"States Parties" means States Parties to the Statute;

"the Statute" means the Rome Statute of the International Criminal Court adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court.

Rule 2
Application

1. These Rules shall be applicable to the work of the Assembly, the Bureau and subsidiary bodies of the Assembly.

2. These Rules shall be applicable to the work of any Review Conference convened in accordance with article 121, paragraph 2, and article 123 of the Statute unless the Review Conference decides otherwise.

II. Sessions

Rule 3
Sessions of the Assembly

The Assembly shall hold regular and special sessions in accordance with paragraph 6 of article 112 of the Statute.

Regular sessions

Rule 4
Frequency of sessions

The Assembly shall meet in regular session once a year.

Rule 5
Date of commencement and duration

The date of commencement and duration of each session shall be decided by the Assembly at the previous session.

Rule 6
Notification of session

The Secretariat shall notify the States Parties, the Observer States, the Court and the United Nations at least sixty days in advance of the opening of a regular session.

Rule 7
Temporary adjournment of session

The Assembly may decide at any session to adjourn temporarily and resume its meetings at a later date.

Special sessions

Rule 8
Convening of special sessions

The Assembly may hold special sessions and fix the date of commencement and the duration of each such special session. Special sessions of the Assembly may also be convened by the Bureau on its own initiative or at the request of one third of the States Parties in accordance with paragraph 6 of article 112 of the Statute.

Rule 9
Notification of special session

The Secretariat shall notify the States Parties, the Observer States, the Court and the United Nations at least twenty-one days in advance, of the opening of a special session.

III. Agenda

Regular sessions

Rule 10
Communication of the provisional agenda

The provisional agenda for a regular session shall be communicated by the Secretariat to the States Parties, the Observer States, the Court and the United

Nations at least sixty days before the opening of the session together with any supplementary documentation if necessary.

Rule 11
Drawing up of the provisional agenda

1. The provisional agenda shall be drawn up by the Secretariat.

2. The provisional agenda shall include, inter alia:

   (a) Items the inclusion of which has been decided at a previous session of the Assembly;

   (b) Items relating to the organization of the session;

   (c) Items relating to the adoption of normative texts;

   (d) Items relating to the management oversight provided by the Assembly to the Presidency, the Prosecutor and the Registrar regarding the administration of the Court;

   (e) Items pertaining to the budget for the Court, to annual financial statements and to a report of an independent auditor;

   (f) Election of judges, and of the Prosecutor and of one or more Deputy Prosecutors, and elections to fill vacancies in the membership of the Court;

   (g) Reports from the Bureau;

   (h) Items relating to any matter submitted to the Assembly of States Parties by the Court pursuant to article 87, paragraphs 5 and 7, of the Statute;

   (i) Any report by any organ of the Court on its work;

   (j) Any item proposed by any State Party;

   (k) Any item proposed by the Court.

3. The United Nations may propose items for consideration by the Assembly. In such cases, the Secretary-General shall notify the President of the Bureau of the Assembly accordingly, providing any relevant information with a view to the possible inclusion of such item in the provisional agenda of the following session of the Assembly.

Rule 12
Supplementary items

Any State Party, the Court or the Bureau may, at least thirty days before the date fixed for the opening of a regular session, request the inclusion of supplementary items in the agenda. Such items shall be placed on a supplementary list, which shall be communicated to the States Parties, to Observer States, the Court and the United Nations at least twenty days before the opening of the session.

Rule 13
Additional items

Additional items of an important and urgent character, proposed for inclusion in the agenda less than thirty days before the opening of a regular session or during a session, may be placed on the agenda of the Assembly if the Assembly so decides by a majority of the members present and voting.

Special sessions

Rule 14
Communication of the provisional agenda

The provisional agenda of the special session shall be communicated by the Secretariat to the States Parties, to Observer States, the Court and the United Nations at least fourteen days before the opening of the session.

Rule 15
Provisional agenda

The provisional agenda of a special session shall consist only of those items proposed in the request for the holding of the session.

Rule 16
Supplementary items

Any State Party, the Bureau or the Court may, at least seven days before the date fixed for the opening of a special session, request the inclusion of supplementary items in the agenda. Such items shall be placed on a supplementary list, which shall be communicated to the States Parties, to Observer States, the Court and the United Nations.

Rule 17
Additional items

During a special session additional items may be added to the agenda by a two-thirds majority of the members of the Assembly present and voting.

Regular and special sessions

Rule 18
Explanatory memorandum

Any item proposed for inclusion in the agenda shall be accompanied by an explanatory memorandum and, if possible, by basic documents or by a draft decision.

Rule 19
Adoption of the agenda

At each session the provisional agenda and the supplementary list shall be submitted to the Assembly for approval as soon as possible after the opening of the session.

Rule 20
Amendment and deletion of items

Items on the agenda may be amended or deleted by the Assembly by a majority of the members of the Assembly present and voting.

Rule 21
Debate on the inclusion of items

Debate on the inclusion of an item in the agenda shall be limited to three speakers in favour of, and three against, the inclusion. The President may limit the time to be allowed to speakers under this rule.

Rule 22
Modification of the allocation of expenses

No proposal for a modification of the allocation of expenses of the Court for the time being in force shall be placed on the agenda unless it has been communicated to the States Parties at least sixty days before the opening of the session.

IV. Representation and credentials

Rule 23
Representation

1. Each State Party shall be represented by one representative, who may be accompanied by alternates and advisers.

2. Each Observer State may be represented in the Assembly by one designated representative, who may be accompanied by alternates and advisers.

3. The representative may designate an alternate or an adviser to act in his/her capacity.

Rule 24
Submission of credentials

The credentials of representatives of States Parties and the names of alternates and advisers shall be submitted to the Secretariat if possible not later than twenty-four hours after the opening of the session. The credentials shall be issued by the Head of State or Government or by the Minister for Foreign Affairs or by a person authorized by either of them.

Rule 25
Credentials Committee

A Credentials Committee shall be appointed at the beginning of each session. It shall consist of representatives of nine States Parties, which shall be appointed by the Assembly on the proposal of the President. The Committee shall elect its own officers. It shall examine the credentials of representatives of States Parties and report to the Assembly without delay.

Rule 26
Provisional admission to a session

Pending a decision of the Assembly upon their credentials, representatives of States Parties shall be entitled to participate provisionally in the Assembly.

Rule 27
Objection to the representation

If an objection is raised against a representation of a State Party, such objection shall be considered by the Credentials Committee forthwith. The report thereon shall be submitted to the Assembly without delay. Any representative of a State Party to whose admission a State Party has made objection shall be seated provisionally with the same rights as other representatives pending the decision of the Assembly.

Rule 28
Notification regarding participation of representatives of Observer States

The names of designated representatives of Observer States and of alternates and advisers who accompany them shall be submitted to the Secretariat.

V. Bureau

Rule 29
Composition and function

1. The Assembly shall have a Bureau consisting of the President, who shall preside, two Vice-Presidents and eighteen members elected by the Assembly from among the representatives of the States Parties for three-year terms. The Bureau shall assist the Assembly in the discharge of its responsibilities.

2. The Bureau shall have a representative character, taking into account, in particular, equitable geographical distribution and the adequate representation of the principal legal systems of the world.

3. The Bureau shall meet as often as necessary, but at least once a year.

VI. President and Vice-Presidents

Rule 30
General powers of the President

1. In addition to exercising the powers conferred upon him/her elsewhere by these Rules, the President shall declare the opening and closing of each plenary meeting of the session, direct the discussions in plenary meetings, ensure observance of these Rules, accord the right to speak, put questions and announce decisions. The President shall rule on points of order and, subject to these Rules, shall have complete control of the proceedings at any meeting and over the maintenance of order thereat. The President may, in the course of the discussion of an item, propose to the Assembly the limitation of the time to be allowed to speakers, the limitation of the number of times each representative may speak, the closure of the list of speakers or the closure of the debate and the suspension or the

adjournment of the meeting or the adjournment of the debate on the item under discussion.

2. The President, in the exercise of his/her functions, remains under the authority of the Assembly.

Rule 31
Voting rights of the President

The President, or a Vice-President acting as President, shall not vote but shall designate another member of his/her delegation to vote in his/her place.

Rule 32
Acting President

1. If the President finds it necessary to be absent during a meeting or any part thereof, he/she shall designate one of the Vice-Presidents to take his/her place.

2. A Vice-President acting as President shall have the same powers and duties as the President.

Rule 33
Replacement of the President

If the President is unable to perform his/her functions, a new President shall be elected for the unexpired term.

VII. Participation of the President of the Court, the Prosecutor and the Registrar

Rule 34
Participation

The President of the Court, the Prosecutor and the Registrar or their representatives may participate, as appropriate, in meetings of the Assembly and the Bureau in accordance with the provisions of these Rules and may make oral or written statements and provide information on any question under consideration.

VIII. Participation of the United Nations

Rule 35
Participation of the United Nations

1. The United Nations shall have a standing invitation to participate, without the right to vote, in the work and deliberations of the Assembly.

2. When issues of interest to the United Nations are taken up by subsidiary bodies, the Secretary-General, if he so desires, or his representative, may participate in the work and deliberations of such subsidiary bodies. The Secretary-General or his representative may make statements, in oral or written form, in the deliberations.

Rule 36
Participation of the Secretary-General

The Secretary-General of the United Nations may participate in meetings of the Assembly and the Bureau. He/She may also designate a member of the United Nations Secretariat to participate on his/her behalf. He/She may make oral or written statements concerning any question under consideration by the Assembly which pertains to United Nations activities and provide information as appropriate.

IX. Secretariat

Rule 37
Duties of the Secretariat

The Secretariat shall receive, translate, reproduce and distribute documents, reports and decisions of the Assembly, the Bureau and any subsidiary bodies that may be established by the Assembly; interpret speeches made at the meetings; prepare, print and circulate, if so decided by the Assembly or the Bureau, the records of the session; have the custody and proper preservation of the documents in the archives of the Assembly; distribute all documents of the Assembly and the Bureau; and, generally, perform all other work which the Assembly or the Bureau may require.

X. Languages

Rule 38
Official and working languages

Arabic, Chinese, English, French, Russian and Spanish, which are both the official and working languages of the General Assembly of the United Nations, shall be the official and working languages of the Assembly (hereinafter "languages of the Assembly").

Rule 39
Interpretation

1. Speeches made in an official and working language of the Assembly shall be interpreted into the other languages of the Assembly.

2. Any representative may make a speech in a language other than the languages of the Assembly. In that case the representative shall provide for interpretation into one of the languages of the Assembly. Interpretation into the other languages of the Assembly by the interpreters of the Secretariat may be based on the interpretation given in the first such language.

Rule 40
Languages of decisions and other documents

All decisions and other official documents shall be published in all languages of the Assembly.

XI. Records

Rule 41
Sound recordings

The Secretariat shall make and keep sound recordings of meetings of the Assembly and the Bureau and, when so decided, of any subsidiary body.

XII. Public and private meetings

Rule 42
General principles

1. The meetings of the Assembly shall be held in public unless the Assembly decides that exceptional circumstances require that the meetings be held in private.

2. As a general rule, meetings of the Bureau and of subsidiary bodies with limited membership shall be held in private unless the body concerned decides otherwise.

3. Meetings of subsidiary bodies with general membership shall be held in public unless the body concerned decides otherwise.

4. Decisions of the Assembly and the Bureau taken at a private meeting shall be announced at the following public meeting. At the close of a private meeting of the Bureau or of any subsidiary body, the President or the presiding officer may issue a communiqué through the Secretariat.

XIII. Minute of silent prayer or meditation

Rule 43
Invitation to silent prayer or meditation

Immediately after the opening of the first plenary meeting and immediately preceding the closing of the final plenary meeting, the President shall invite the representatives to observe one minute of silence dedicated to prayer or meditation.

XIV. Conduct of business

Rule 44
Quorum

1. The President may declare a meeting open and permit the debate to proceed when at least one third of the States Parties participating in the session are present.

2. The presence of an absolute majority of the States Parties constitutes the quorum for voting on matters of substance.

Rule 45
Speeches

No representative may address the Assembly without having previously obtained the permission of the President. The President shall call upon speakers in the order in which they signify their desire to speak. The President may call a speaker to order if his/her remarks are not relevant to the question under consideration.

Rule 46
Precedence

The Presiding Officer of a subsidiary body may be given precedence for the purpose of explaining the conclusions arrived at by that organ.

Rule 47
Statements by the President of the Court, the Prosecutor and the Registrar

The President of the Court, the Prosecutor and the Registrar or their representatives may make either written or oral statements to the Assembly or the Bureau on any question under their consideration.

Rule 48
Statements by the Secretariat

The chief officer of the Secretariat, or a member of the Secretariat designated by him/her as his/her representative, may make either oral or written statements to the Assembly concerning any question under consideration by it.

Rule 49
Points of order

During the discussion of any matter, a representative of a State Party may rise to a point of order, and the point of order shall be immediately decided by the President in accordance with these Rules. A representative of a State Party may appeal against the ruling of the President. The appeal shall be immediately put to the vote, and the President's ruling shall stand unless overruled by a majority of the States Parties present and voting. A representative rising to a point of order may not speak on the substance of the question under consideration.

Rule 50
Time limit on speeches

The Assembly may limit the time to be allowed to each speaker and the number of times each representative may speak on any question. Before a decision is taken, two representatives of States Parties may speak in favour of, and two against, a proposal to set such limits. When the debate is limited and a representative exceeds his/her allotted time, the President shall call him/her to order without delay.

Rule 51
Closing of list of speakers and right of reply

During the course of a debate, the President may announce the list of speakers and, with the consent of the Assembly, declare the list closed. The President may, however, accord the right of reply to a representative if a speech delivered after he/she has declared the list closed makes this desirable.

Rule 52
Adjournment of debate

During the discussion of any matter, a representative of a State Party may move the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, two representatives of States Parties may speak in favour of, and two against, the motion, after which the motion shall be immediately put to the vote. The President may limit the time to be allowed to speakers under this rule.

Rule 53
Closure of debate

A representative of a State Party may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified his/her wish to speak. Permission to speak on the motion shall be accorded only to two representatives of States Parties opposing the closure, after which the motion shall be immediately put to the vote. If the Assembly is in favour of the closure, the President shall declare the closure of the debate. The President may limit the time to be allowed to speakers under this rule.

Rule 54
Suspension or adjournment of the meeting

During the discussion of any matter, a representative of a State Party may move the suspension or the adjournment of the meeting. Such motion shall not be debated, but shall be immediately put to the vote. The President may limit the time to be allowed to the speakers moving the suspension or adjournment of the meeting.

Rule 55
Order of procedural motions

Subject to rule 48, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

(a) To suspend the meeting;

(b) To adjourn the meeting;

(c) To adjourn the debate on the question under discussion;

(d) To close the debate on the question under discussion.

Rule 56
Proposals and amendments

Proposals and amendments shall normally be submitted in writing to the Secretariat, which shall circulate copies to the delegations. As a general rule, no proposal shall be discussed or put to the vote at any meeting unless copies of it have been circulated to all delegations in all languages of the Assembly not later than the day preceding the meeting. The President may, however, permit the discussion and consideration of amendments, or of motions as to procedure, even though such amendments and motions have not been circulated or have only been circulated the same day.

Rule 57
Decisions on competence

Subject to rule 55, any motion by a State Party calling for a decision on the competence of the Assembly to adopt a proposal submitted to it shall be put to the vote before a decision is taken on the proposal in question.

Rule 58
Withdrawal of motions

A motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that the motion has not been amended. A motion thus withdrawn may be reintroduced by a representative of any State Party.

Rule 59
Reconsideration of proposals

When a proposal has been adopted or rejected, it may not be reconsidered at the same session unless the Assembly, by a two-thirds majority of the States Parties present and voting, so decides. Permission to speak on a motion to reconsider shall be accorded only to two representatives of States Parties opposing the motion, after which it shall be immediately put to the vote.

XV. Decision-making

Rule 60
Voting rights

Subject to article 112, paragraph 8, of the Statute, each State Party shall have one vote.

Rule 61
Consensus

Every effort shall be made to reach decisions in the Assembly and in the Bureau by consensus. If consensus cannot be reached, decisions shall be taken by vote.

Rule 62
Consideration of financial implications

Before the Assembly takes a decision having financial implications, it shall receive and consider a report on such implications from the Secretariat or from the Registrar, as appropriate according to the subject matter, for decisions having financial or administrative implications relating to the Court.

Rule 63
Decisions on matters of substance

Subject to rule 61, and except as otherwise provided in the Statute and as reflected in these Rules, decisions on matters of substance must be approved by a two-thirds majority of States Parties present and voting.

Rule 64
Decisions on matters of procedure

1. Subject to rule 61 and except as otherwise provided in the Statute and as reflected in these Rules, decisions on matters of procedure shall be taken by a simple majority of States Parties present and voting.

2. If the question arises whether a matter is one of procedure or of substance, the President shall rule on the question. An appeal against this ruling shall immediately be put to the vote and the President's ruling shall stand unless the appeal is approved by a simple majority of the States Parties present and voting.

Rule 65
Decisions on amendments to proposals relating to matters of substance

Decisions on amendments to proposals relating to matters of substance, and on parts of such proposals put to the vote separately, shall be made by a two-thirds majority of the States Parties present and voting.

Rule 66
Meaning of the phrase "States Parties present and voting"

For the purposes of these Rules, the phrase "States Parties present and voting" means States Parties present and casting an affirmative or negative vote. States Parties which abstain from the voting shall be considered as not voting.

Rule 67
Method of voting

1. The Assembly shall, in the absence of mechanical or electronic means for voting, vote by show of hands or by standing, but a representative of any State Party may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the States Parties, beginning with the State Party whose name is drawn by lot by the President. The name of each State Party shall be called in any roll-call, and its representative shall reply "yes", "no" or "abstention". The result of the voting shall be inserted in the records in the English alphabetical order of the names of the States Parties.

2. When the Assembly votes by mechanical or electronic means, a non-recorded vote shall replace a vote by show of hands or by standing and a recorded vote shall replace a roll-call vote. A representative of a State Party may request a recorded vote. In the case of a recorded vote, the Assembly shall, unless a representative of a State Party requests otherwise, dispense with the procedure of calling out the names of the States Parties; nevertheless, the result of the voting shall be inserted in the record in the same manner as that of a roll-call vote.

Rule 68
Conduct during voting

After the President has announced the commencement of voting, no representative of a State Party may interrupt the voting, except that representatives of States Parties may interrupt on a point of order in connection with the actual conduct of the voting.

Rule 69
Explanation of vote

Representatives of States Parties may make brief statements consisting solely of explanations of their votes before the voting has commenced or after the voting has been completed. The representative of a State Party sponsoring a proposal or motion shall not speak in explanation of vote thereon, except if it has been amended. The President may limit the time to be allowed for such explanations.

Rule 70
Division of proposals and amendments

A representative of a State Party may move that parts of a proposal or of an amendment be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two speakers in favour and two speakers against. If the motion for division is carried, those parts of the proposal or of an amendment which are approved shall then be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

Rule 71
Order of voting on amendments

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Assembly shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of the proposal.

Rule 72
Order of voting on proposals

If two or more proposals relate to the same question, the Assembly shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Assembly may, after each vote on a proposal, decide whether to vote on the next proposal.

Rule 73
Rules of Procedure and Evidence

1. The Rules of Procedure and Evidence shall be adopted by the Assembly by a two-thirds majority of the members of the Assembly.

2. Any provisional Rules of Procedure and Evidence drawn up in accordance with article 51, paragraph 3, of the Statute shall be put before the next ordinary or special session of the Assembly for its decision as to their adoption, amendment or rejection.

3. Amendments to the Rules of Procedure and Evidence, proposed in accordance with article 51, paragraph 2, of the Statute, shall be forwarded to the President of the Bureau, who shall ensure their translation into all official languages of the Court and transmission to the States Parties. Such amendments shall enter into force upon adoption by a two-thirds majority of the members of the Assembly.

Rule 74
Elements of Crimes

1. The Elements of Crimes shall be adopted by the Assembly by a two-thirds majority of the members of the Assembly.

2. Amendments to the Elements, proposed in accordance with article 9, paragraph 2, of the Statute, shall be forwarded to the President of the Bureau, who shall ensure their translation into the official languages of the Court and transmission to the States Parties. Such amendments shall enter into force upon adoption by a two-thirds majority of the members of the Assembly.

Rule 75
Increase or reduction in the number of judges

Any proposal by the Presidency, acting on behalf of the Court, regarding an increase or a subsequent reduction in the number of judges, submitted pursuant to article 36, paragraph 2, of the Statute, shall be considered adopted if approved by a vote of two thirds of the members of the Assembly and shall enter into force at such time as decided by the Assembly.

Rule 76
Amendments to the Statute

Amendments to the Statute, proposed pursuant to article 121, paragraph 1, and article 122, paragraph 1,of the Statute on which consensus cannot be reached shall be adopted by the Assembly or by a Review Conference, by a two-thirds majority of States Parties.

Rule 77
Equally divided votes

If a vote is equally divided on matters other than elections, the proposal or motion shall be regarded as rejected.

Rule 78
Elections of officers of the Assembly

All elections of officers of the Assembly shall be held by secret ballot unless, in the absence of any objection, the Assembly decides to proceed without taking a ballot on an agreed candidate or slate.

Rule 79
Restricted balloting for one elective place

When only one person or State Party is to be elected and no candidate obtains in the first ballot the majority required, a second ballot shall be taken, which shall be restricted to the two candidates obtaining the largest number of votes. If in the second ballot the votes are equally divided, and a majority is required, the President shall decide between the candidates by drawing lots. If a two-thirds majority is required, the balloting shall be continued until one candidate secures two thirds of the votes cast; provided that after the third inconclusive ballot, votes may be cast for any eligible person or State Party. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the two candidates who obtained the greatest number of votes in the third of the unrestricted ballots, and the following three ballots thereafter shall be unrestricted, and so on until a person or State Party is elected. These provisions shall not prejudice the application of rules 85 and 86.

Rule 80
Restricted balloting for two or more elective places

When two or more elective places are to be filled at one time under the same conditions, those candidates obtaining in the first ballot the majority required shall be elected. If the number of candidates obtaining such majority is less than the number of persons or States Parties to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot to a number not more than twice the places remaining to be filled; provided that after the third inconclusive ballot, votes may be cast for any eligible person or State Party. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled. These provisions shall not prejudice the application of rules 85 and 86.

XVI. Disciplinary proceedings

Rule 81
Removal from office of a judge, the Prosecutor or a Deputy Prosecutor

1. On the receipt of a communication from the Presidency or the Prosecutor concerning a complaint or a recommendation for the removal from office of a judge, the Prosecutor or a Deputy Prosecutor, as the case may be, in accordance with rules 26 and 29, paragraphs 2 and 3, of the Rules of Procedure and Evidence, the President of the Bureau of the Assembly shall circulate such communication among the members of the Bureau and shall convene a meeting of the Bureau.

2. After having heard the person concerned, the Bureau, when the seriousness of the complaint and the nature of the evidence so warrant, may, in accordance with rule 28 of the Rules of Procedure and Evidence, suspend him/her from duty pending final decision.

3. After having gathered, with full respect of the rights of the person concerned as provided for in rule 27 of the Rules of Procedure and Evidence, all the relevant information for the purpose of deciding on the complaint, the Bureau shall transmit to the next ordinary or special session of the Assembly the communication received in accordance with paragraph 1, and the relevant materials, and a recommendation on the alleged responsibility of the person concerned.

4. A decision as to the removal from office of a judge, the Prosecutor or a Deputy Prosecutor shall be made by the Assembly as provided for in article 46, paragraph 2, of the Statute.

Rule 82
Disciplinary measures

1. On the receipt of a communication from the Presidency or the Prosecutor concerning a complaint or recommendation for disciplinary measures against the Prosecutor or a Deputy Prosecutor, as the case may be, in accordance with rules 26 and 30, paragraphs 2 and 3 (b), of the Rules of Procedure and Evidence, the President of the Bureau of the Assembly shall circulate such communication among the members of the Bureau and shall convene a meeting of the Bureau.

2. After having gathered, with full respect of the rights of the person concerned as provided for in rule 27 of the Rules of Procedure and Evidence, all the relevant information for the purpose of deciding on the complaint, the Bureau shall adopt a decision in accordance with rule 30, paragraphs 2 and 3, of the Rules of Procedure and Evidence.

XVII. Subsidiary bodies

Rule 83
Establishment of subsidiary bodies

The Assembly may establish such subsidiary bodies as may be necessary, including an independent oversight mechanism for inspection, evaluation and investigation of the Court, in order to enhance its efficiency and economy.

Rule 84
Rules of procedure of subsidiary bodies

Unless otherwise decided by the Assembly, these rules shall apply, mutatis mutandis, to the proceedings of subsidiary bodies, except that:

(a) The presiding officer of a subsidiary body may exercise the right of vote;

(b) The presence of representatives of a majority of the members of a subsidiary body shall be required for any decision to be taken.

XVIII. Elections of the judges, the Prosecutor and the Deputy Prosecutors

Rule 85
Elections of the judges

The elections of the judges and the elections to fill a vacancy shall be held in accordance with articles 36 and 37 of the Statute.

Rule 86
Elections of the Prosecutor and the Deputy Prosecutors

The elections of the Prosecutor and the Deputy Prosecutors shall take place in accordance with article 42, paragraphs 2, 3 and 4, of the Statute.

XIX. Administrative and budgetary questions

Rule 87
Staff regulations and guidelines

1. The Assembly shall approve the Staff Regulations which shall be proposed by the Registrar, in accordance with article 44, paragraph 3, of the Statute, and which include the terms and conditions upon which the staff of the Court shall be appointed, remunerated and dismissed. When approving the Staff Regulations, the Assembly shall ensure that they fully reflect the provisions of article 44, paragraphs 1 and 2, of the Statute.

2. The Assembly shall establish guidelines for the employment by the Court, in exceptional circumstances, of gratis personnel offered by States Parties, intergovernmental organizations or non-governmental organizations to assist with the work of any of the organs of the Court.

Rule 88
Regulations for financial administration

1. The Assembly shall adopt the Financial Regulations and Rules which, in addition to the Statute, shall govern all financial matters related to the Court and the meetings of the Assembly, including its Bureau and subsidiary bodies.

2. The Assembly shall adopt the criteria under which the Court may receive and utilize, as additional funds, voluntary contributions from Governments, international organizations, individuals, corporations and other entities.

3. The Assembly shall decide on salaries, allowances and expenses which shall be received by the judges, the Prosecutor, the Deputy Prosecutors, the Registrar and the Deputy Registrar.

Rule 89
Trust Fund

1. A Trust Fund shall be established by a decision of the Assembly, pursuant to article 79 of the Statute, for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims.

2. The Trust Fund shall be managed according to criteria to be determined by the Assembly.

Rule 90
Budget

The Assembly shall decide on the budget, which shall comprise the expenses of the Court and the Assembly, including its Bureau and subsidiary bodies.

Rule 91
Contributions

The Assembly shall decide on a scale of assessment, under which the contributions of States Parties to the budget shall be assessed, to be based on the scale adopted by the United Nations for its regular budget and adjusted in accordance with the principles on which that scale is based.

XX. Participation of observers and other participants

Rule 92
Observers

1. Representatives designated by entities, intergovernmental organizations and other entities that have received a standing invitation from the General Assembly of the United Nations pursuant to its relevant resolutions to participate, in the capacity of observers, in its sessions and work have the right to participate as observers, without the right to vote, in the deliberations of the Assembly.

2. Representatives designated by regional intergovernmental organizations or other international bodies invited to the Rome Conference, accredited to the Preparatory Commission for the International Criminal Court or invited by the Assembly may participate as observers, without the right to vote, in the deliberations of the Assembly.

3. The representatives referred to in paragraphs 1 and 2 above may also participate in the deliberations of subsidiary bodies under the conditions laid down in rule 42 of the present rules of procedure.

Rule 93
Other participants

Non-governmental organizations invited to the Rome Conference, registered to the Preparatory Commission for the International Criminal Court, or having consultative status with the Economic and Social Council of the United Nations whose activities are relevant to the activities of the Court and other non-governmental organizations invited by the Assembly may, through their designated representatives:

(a) Attend meetings of the Assembly and meetings of its subsidiary bodies under the conditions laid down in rule 42 of the present Rules of Procedure;

(b) Receive copies of official documents;

(c) Upon the invitation of the President and subject to the approval of the Assembly, make oral statements through a limited number of representatives on questions relating to their activities at the opening and closing meetings of the Assembly;

(d) Make oral statements through a limited number of representatives on questions relating to their activities at the opening and closing meetings of subsidiary bodies, when the subsidiary body concerned deems it appropriate.

Rule 94
States not having observer status

At the beginning of each session of the Assembly, the President may, subject to the approval of the Assembly, invite a given State which is not a party and does not have observer status to designate a representative to be present during the work of the Assembly. A representative who is so designated may be authorized by the Assembly to make a statement.

Rule 95
Written statements

Written statements submitted by the designated representatives referred to in rules 92, 93 and 94 shall be made available by the Secretariat to representatives of the States Parties and Observer States in the quantities and in the language or languages in which the statements are made available to it, provided that a statement submitted on behalf of a non-governmental organization is related to the work of the Assembly and is on a subject in which the organization has a special competence. Written statements shall not be made at the expense of the Assembly and shall not be issued as official documents.

XXI. Amendments

Rule 96
Method of amendment

These Rules may be amended by a decision of the Assembly taken by a two-thirds majority of the States Parties present and voting after the Bureau has reported on the proposed amendment.